

STATE OF INDIANA

IN THE DELAWARE CIRCUIT COURT

SS:

COUNTY OF DELAWARE

AVC NO.

IN RE: ANDREW SMITH

MISCELLANEOUS DOCKET NUMBER:

Respondent.

)

18CO2-0306-M1-50

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Respondent, Andrew Smith, enter into an Assurance of Voluntary Compliance ("Assurance"), pursuant to Indiana Code §24-5-0.5-7.

Any violation of the terms of this Assurance constitutes *prima facie* evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

Respondent, Andrew Smith, is an individual engaged in the sale of goods via the Internet, with a principal place of business in Delaware County, located at 1505 W. Buckingham Drive, Muncie, Indiana.

The terms of this Assurance apply to and are binding upon Respondent, his employees, agents, representatives, successors, and assigns.

3. Respondent acknowledges the jurisdiction of the Consumer Protection Division of the Office of the Attorney General to investigate matters hereinafter described, pursuant to the authority of Indiana Code §4-6-9-4 and Indiana Code §24-5-0.5-1 *et seq.*

4. Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing either orally or in writing that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which he knows or should reasonably know that it does not.

5. Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing either orally or in writing that he is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when he knows or reasonably should know he cannot.

6. Respondent, in soliciting and/or contracting with consumers, agrees to refrain from representing either orally or in writing that the consumer will be able to purchase the subject of the consumer transaction as advertised by the Respondent, if the Respondent does not intend to sell it.

7. Respondent, in soliciting and/or contracting with consumers, agrees to fully comply with the Deceptive Consumer Sales Act, Indiana Code §24-5-0.5-1 *et seq.*

8. Upon execution of this Assurance, Respondent shall pay total consumer restitution in the amount of Three Hundred Eleven Dollars and Fifty Cents (\$311.50) to the Office of the Attorney General on behalf of the following consumers:

- | | |
|--|-----------|
| (a) Rick Hendrick of Ocoee, Florida | \$ 135.00 |
| (b) Cristion Floyd of Bloomfield, Indiana | \$ 85.00 |
| (c) Herbert Ker of Boynton Beach, Florida | \$ |
| (d) Doug Epting of Charlotte, North Carolina | \$ |

9. Upon execution of this Assurance, Respondent shall pay costs in the amount of Three Hundred Dollars (\$300.00) to the Office of the Attorney General.

10. Respondent shall not represent that the Office of the Attorney General approves or endorses Respondent's past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

11. Respondent shall fully cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

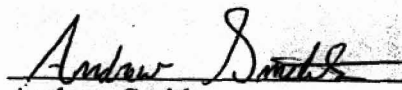
12. The Office of the Attorney General shall file this Assurance with the Circuit Court of Delaware County. The Court's approval of this Assurance shall not act as a bar to any private of action.

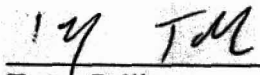
DATED this 27 day of May, 2003.

STATE OF INDIANA


RESPONDENT

STEVE CARTER
Attorney General of Indiana


Andrew Smith


Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49
Office of Attorney General
302 W. Washington, 5th Floor
Indianapolis, Indiana 46204
Telephone: (317) 233-3300

APPROVED, this 6th day of June, 2003.


Judge, Delaware County Circuit Court

